

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

FILED

2004 MAY 12 A 10:59

CLERK
U.S. BANKRUPTCY COURT
CASE NO. 04-11959EM *nmh*
DEPUTY

IN RE: MORAN, MICHAEL DUANE
MORAN, MARTHA ELESE

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CHAPTER 7

DEBTORS.

MICHAEL DUANE MORAN and
MARTHA ELESE MORAN
PLAINTIFFS,

ADV. PRO.

vs.

UNITED STATES DEPARTMENT OF
EDUCATION,
DEFENDANT.

04-1136FM

**COMPLAINT TO DETERMINE DISCHARGEABILITY OF
STUDENT LOAN DEBT PURSUANT TO 11 U.S.C. §523(a)(8)**

TO THE HONORABLE UNITED STATES JUDGE:

COMES NOW Michael Duane and Martha Elese Moran, Debtors and Plaintiffs in the above case, by and through their attorney, Charles R. Nettles, and files this Complaint for a Determination of the Dischargeability of Student Loan Debt. Plaintiff would show the Court as follows:

1. This Court has jurisdiction over this proceeding pursuant to 28 U.S.C. §1334 and 11 U.S.C. Bankruptcy Rule 4007. This is a core proceeding as defined by 11 U.S.C. §157(b).
2. Debtors filed a Chapter 7 Bankruptcy petition on April 7, 2004. Ronald Ingalls became the duly appointed trustee in the bankruptcy. The 341 meeting of the creditors was held on May 7, 2004.
3. The Debtor included the United States Department of Education as an unsecured creditor on his Chapter 7 petition for student loans.

4. Repayment of this indebtedness will impose an undue hardship upon debtor, as Mr. Moran is currently disabled as a result of agent orange related medical problems stemming from his service in Vietnam.

WHEREFORE, Debtors pray that the Court enter an order discharging the student loan debt and for further relief to which the Debtor may be justly entitled.

Respectfully submitted,



Charles R. Nettles
1524 South IH-35, Suite 233
Austin, TX 78704
(512) 459-3212
TSB# 14927200

CERTIFICATE OF SERVICE

This is to certify that on the _____ day of May, 2004, a true and accurate copy of the foregoing complaint was served by first class U.S. Mail to the following parties:

Ronald Ingalls
PO Box 684903
Austin, TX 78768-4903

US Attorney General
Main Justice Building, Room 5111
10th & Constitution Avenue NW
Washington, DC 20530

US Trustee
903 San Jacinto, Suite 230
Austin, TX 78701

US Attorney
601 NW Loop, Suite 600
San Antonio, TX 78216-5512

US Department of Education
PO Box 530260
Atlanta, GA 30353-0260

Dated: 4-12-04



Charles R. Nettles
1524 South IH-35, Suite 233
Austin, TX 78704
(512) 459-3212
TSB# 14927200

B 104 (Rev. 6/87)		ADVERSARY PROCEEDING COVER SHEET		ADVERSARY PROCEEDING NUMBER (Court Use Only)	
PLAINTIFFS Michael & Martha Moran			DEFENDANTS US Department of Education		
ATTORNEYS (Firm Name, Address, and Telephone NO.) Charles R. Nettles 1524 South IH-35, Suite 233 Austin, Texas 78704 (512) 459-3212			ATTORNEYS (If Known) <div style="text-align: right; font-size: 1.2em; font-weight: bold;">RECEIVED</div> <div style="text-align: right; font-size: 1.1em; font-weight: bold;">MAY 12 2004</div> <div style="text-align: right; font-size: 0.9em;">U.S. BANKRUPTCY COURT</div> <div style="text-align: right; font-size: 0.9em;">BY <u>Wmh</u> DEPUTY</div>		
PARTY (Check one box only) <input type="checkbox"/> 1 U.S. PLAINTIFF <input checked="" type="checkbox"/> 2 U.S. DEFENDANT <input type="checkbox"/> U.S. NOT A PARTY					
CAUSE OF ACTION (WRITE A BRIEF STATEMENT OF CAUSE OF ACTION, INCLUDING ALL U.S. STATUTES INVOLVED) Determination of Dischargeability					
NATURE OF SUIT (Check the one most appropriate box only.)					
<div style="display: flex; flex-wrap: wrap;"> <div style="width: 33%;"><input type="checkbox"/> 454 To Recover Money or Property</div> <div style="width: 33%;"><input type="checkbox"/> 455 To revoke an order of confirmation of a Chap. 11 or Chap. 13 Plan</div> <div style="width: 33%;"><input type="checkbox"/> 456 To obtain a declaratory judgment relating to any of foregoing</div> <div style="width: 33%;"><input type="checkbox"/> 435 To Determine Validity, Priority, or Extent of a Lien or Other Interest In Property</div> <div style="width: 33%;"><input checked="" type="checkbox"/> 426 To determine the dischargeability of a debt 11 USC § 523</div> <div style="width: 33%;"><input type="checkbox"/> 459 To determine a claim or cause of action removed to a bankruptcy court</div> <div style="width: 33%;"><input type="checkbox"/> 458 To obtain approval for the sale of both the interest of the estate and of a co-owner in property</div> <div style="width: 33%;"><input type="checkbox"/> 434 To obtain an injunction or other equitable relief</div> <div style="width: 33%;"><input type="checkbox"/> 457 To subordinate any allowed claim or interest except where such subordination is provided in a plan</div> <div style="width: 33%;"><input type="checkbox"/> 498 Other (specify)</div> <div style="width: 33%;"><input type="checkbox"/> 424 To object or to revoke a discharge 11 U.S.C. §727</div> </div>					
ORIGIN OF PROCEEDINGS (Check one box only.) <input checked="" type="checkbox"/> 1 Original Proceeding <input type="checkbox"/> 2 Removed Proceeding <input type="checkbox"/> 4 Reinstated or Reopened <input type="checkbox"/> 5 Transferred from another Bankruptcy Court <input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23					
DEMAND		NEAREST THOUSAND \$		OTHER RELIEF SOUGHT	
BANKRUPTCY CASE IN WHICH THIS ADVERSARY PROCEEDING ARISES					
NAME OF DEBTOR MICHAEL & MARTHA MORAN			BANKRUPTCY CASE NO. 04-11959		
DISTRICT IN WHICH CASE IS PENDING WESTERN DISTRICT OF TEXAS		DIVISIONAL OFFICE AUSTIN		NAME OF JUDGE FRANK MONROE	
RELATED ADVERSARY PROCEEDING (IF ANY)					
PLAINTIFF		DEFENDANT		ADVERSARY PROCEEDING NO.	
DISTRICT		DIVISIONAL OFFICE		NAME OF JUDGE	
FILING FEE (Check one box only.) <input type="checkbox"/> FEE ATTACHED <input checked="" type="checkbox"/> FEE NOT REQUIRED <input type="checkbox"/> FEE IS DEFERRED					
DATE 5-12-04		PRINT NAME CHARLES R. NETTLES		SIGNATURE OF ATTORNEY (OR PLAINTIFF) 	